

14 June 1988

OCA 1996-88

MEMORANDUM FOR: [ ] MSD/OGC  
FROM: [ ] Legislation Division  
Office of Congressional Affairs  
SUBJECT: Civil Rights Restoration Act of 1987

1. As you will see from the attached request, several congressmen have asked us for documents relating to the Agency's implementation of the Civil Rights Restoration Act of 1987, a copy of which is also attached. However, as I read the law, there is no provision which we need implement inasmuch as the CIA is a Federal and not a state entity.

2. I ask that you review the request and the law and inform me of your interpretation no later than 15 June 1988.

Attachments

OCA/LEG [ ] (14 June 1988)

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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

May 10, 1988

**The Honorable William H. Webster**  
**Director**  
**Central Intelligence Agency**  
**Washington, D.C. 20505**

**Dear Director Webster:**

We are writing to you as chairmen and ranking members of committees and subcommittees with jurisdiction over the Civil Rights Restoration Act. It is our purpose to alert you to our strong interest in closely monitoring the implementation of this important legislation.

In aid of our oversight of this important issue, we request that you provide us with all documents relating to the development or preparation of regulations, instruction memoranda, correspondence, or other documents implementing the Civil Rights Restoration Act, whether prepared by or within your agency or developed in cooperation with your agency. Such documents should include, but not be limited to background and developmental memoranda, drafts of proposed regulations, letters, internal memoranda or informal written communications and any other written material not covered by the foregoing. In addition, please provide any documents including, but not limited to those described above, if provided to you by any other agency or entity within the federal government relating to the development or preparation of regulations, instruction memoranda, correspondence, or other documents implementing the Civil Rights Restoration Act.

We ask that these documents be furnished to us as soon as they are prepared.

We look forward to your prompt reply indicating what activities you are undertaking to implement the Civil Rights Restoration Act, and providing all requested documents which have been prepared or received by your agency to date. The requested documents should be forwarded to the House Judiciary and Education and Labor Committees, and to the Senate Labor and Human Resources Committee.

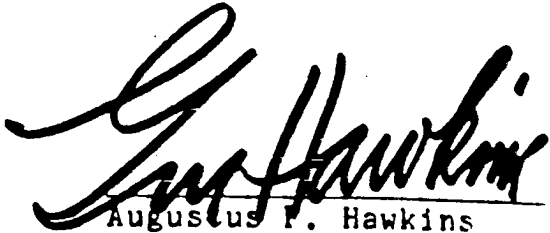
DCI  
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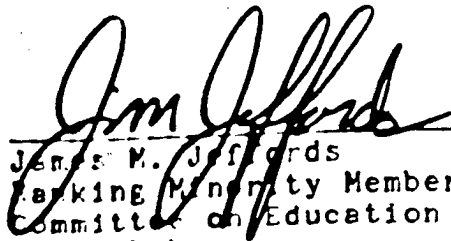
Thank you for your cooperation in this matter.

With best wishes,

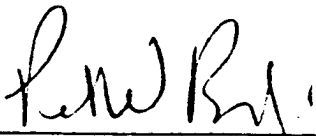
Sincerely,



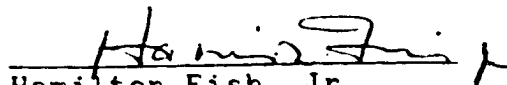
Augustus F. Hawkins  
Chairman  
Committee on Education  
and Labor



James M. Jeffords  
Ranking Minority Member  
Committee on Education  
and Labor



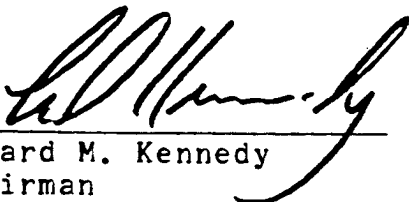
Peter W. Rodino, Jr.  
Chairman  
Committee on the Judiciary



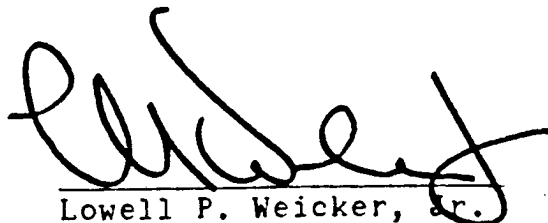
Hamilton Fish, Jr.  
Ranking Minority Member  
Committee on the Judiciary



Don Edwards  
Chairman  
Subcommittee on Civil  
and Constitutional Rights



Edward M. Kennedy  
Chairman  
Committee on Labor  
and Human Resources

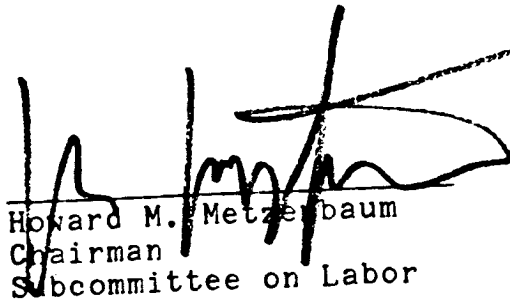


Lowell P. Weicker, Jr.  
Ranking Minority Member  
Subcommittee on the Handicapped

-3-



Tom Harkin  
Chairman  
Subcommittee on  
the Handicapped



Howard M. Metzenbaum  
Chairman  
Subcommittee on Labor



Bob Packwood  
Ranking Minority Member  
Committee on Finance

cc: Congressional Liaison Office

**PUBLIC LAW 100-259—MAR. 22, 1988**

**CIVIL RIGHTS RESTORATION  
ACT OF 1987**

19-139 0 - 88 (259)

102 STAT. 28

PUBLIC LAW 100-259—MAR. 22, 1988

Public Law 100-259  
100th Congress

An Act

Mar. 22, 1988  
[S. 557]

To restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.

Civil Rights  
Restoration Act  
of 1987.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

20 USC 1681  
note.

SECTION 1. This Act may be cited as the "Civil Rights Restoration Act of 1987".

FINDINGS OF CONGRESS

20 USC 1687  
note.

SEC. 2. The Congress finds that—

(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; and

(2) legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.

EDUCATION AMENDMENTS AMENDMENT

SEC. 3. (a) Title IX of the Education Amendments of 1972 is amended by adding at the end the following new sections:

"INTERPRETATION OF 'PROGRAM OR ACTIVITY'

20 USC 1687.

"SEC. 908. For the purposes of this title, the term 'program or activity' and 'program' mean all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

MAR. 22, 1988

## PUBLIC LAW 100-259—MAR. 22, 1988

102 STAT. 29

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of the Rehabilitation Act of 1973, the  
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department or agency (and  
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of assistance to a State or

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cation; or  
defined in section 198(a)(10)  
Education Act of 1965),  
her school system;  
partnership, or other private  
etorship—

“(i) if assistance is extended to such corporation, partner-  
ship, private organization, or sole proprietorship as a whole;  
or

“(ii) which is principally engaged in the business of  
providing education, health care, housing, social services, or  
parks and recreation; or

“(B) the entire plant or other comparable, geographically  
separate facility to which Federal financial assistance is  
extended, in the case of any other corporation, partnership,  
private organization, or sole proprietorship; or

“(4) any other entity which is established by two or more of  
the entities described in paragraph (1), (2), or (3);  
any part of which is extended Federal financial assistance, except  
that such term does not include any operation of an entity which is  
controlled by a religious organization if the application of section  
901 to such operation would not be consistent with the religious  
tenets of such organization.”.

(b) Notwithstanding any provision of this Act or any amendment  
adopted thereto:

## “NEUTRALITY WITH RESPECT TO ABORTION

“SEC. 909. Nothing in this title shall be construed to require or  
prohibit any person, or public or private entity, to provide or pay for  
any benefit or service, including the use of facilities, related to an  
abortion. Nothing in this section shall be construed to permit a  
penalty to be imposed on any person or individual because such  
person or individual is seeking or has received any benefit or service  
related to a legal abortion.”.

20 USC 1688.

## REHABILITATION ACT AMENDMENT

SEC. 4. Section 504 of the Rehabilitation Act of 1973 is amended—

29 USC 794.

(1) by inserting “(a)” after “SEC. 504.”; and

(2) by adding at the end the following new subsections:

“(b) For the purposes of this section, the term ‘program or activity’  
means all of the operations of—

“(1)(A) a department, agency, special purpose district, or other  
instrumentality of a State or of a local government; or

“(B) the entity of such State or local government that distrib-  
utes such assistance and each such department or agency (and  
each other State or local government entity) to which the  
assistance is extended, in the case of assistance to a State or  
local government;

“(2)(A) a college, university, or other postsecondary institu-  
tion, or a public system of higher education; or

“(B) a local educational agency (as defined in section 198(a)(10)  
of the Elementary and Secondary Education Act of 1965),  
system of vocational education, or other school system;

“(3)(A) an entire corporation, partnership, or other private  
organization, or an entire sole proprietorship—

“(i) if assistance is extended to such corporation, partner-  
ship, private organization, or sole proprietorship as a whole;  
or

“(ii) which is principally engaged in the business of  
providing education, health care, housing, social services, or  
parks and recreation; or

102 STAT. 30

PUBLIC LAW 100-259—MAR. 22, 1988

Health care  
facilities.

"(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3); any part of which is extended Federal financial assistance.

"(c) Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on the date of the enactment of this subsection."

## AGE DISCRIMINATION ACT AMENDMENT

42 USC 6107.

SEC. 5. Section 309 of the Age Discrimination Act of 1975 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting "; and" in lieu thereof; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the term 'program or activity' means all of the operations of—

"(A)(i) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(ii) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(B)(i) a college, university, or other postsecondary institution, or a public system of higher education; or

"(ii) a local educational agency (as defined in section 198(a)(10), of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(C)(i) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(I) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(II) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(ii) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(D) any other entity which is established by two or more of the entities described in subparagraph (A), (B), or (C); any part of which is extended Federal financial assistance."



—MAR. 22, 1988

PUBLIC LAW 100-259—MAR. 22, 1988

102 STAT. 31

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The terms used in this subsec-  
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ection.”.

## CT AMENDMENT

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t the end of paragraph (3) and  
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agency (as defined in section  
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proprietorship; or  
n is established by two or more  
subparagraph (A), (B), or (C);  
Federal financial assistance.”.

## CIVIL RIGHTS ACT AMENDMENT

SEC. 6. Title VI of the Civil Rights Act of 1964 is amended by adding at the end the following new section:

“SEC. 606. For the purposes of this title, the term ‘program or activity’ and the term ‘program’ mean all of the operations of—

42 USC  
2000d-4a.

“(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

“(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

“(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

“(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

“(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

“(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

“(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

“(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

“(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3); any part of which is extended Federal financial assistance.”.

## RULE OF CONSTRUCTION

SEC. 7. Nothing in the amendments made by this Act shall be construed to extend the application of the Acts so amended to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act.

20 USC 1687  
note.

## ABORTION NEUTRALITY

SEC. 8. No provision of this Act or any amendment made by this Act shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal Funds to perform or pay for an abortion.

20 USC 1688  
note.

## CLARIFICATION OF INDIVIDUALS WITH HANDICAPS IN THE EMPLOYMENT CONTEXT

SEC. 9. Section 7(8) of the Rehabilitation Act of 1973 is amended by adding after subparagraph (B) the following:

29 USC 706.

“(C) For the purpose of sections 503 and 504, as such sections relate to employment, such term does not include an individual who

102 STAT. 32

## PUBLIC LAW 100-259—MAR. 22, 1988

has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job."

JIM WRIGHT

*Speaker of the House of Representatives.*

HARRY M. REID

*Acting President of the Senate pro tempore.*

## IN THE SENATE OF THE UNITED STATES,

*March 22 (legislative day, March 21), 1988.*

The Senate having proceeded to reconsider the bill (S. 557) entitled "An Act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

*Resolved*, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

WALTER J. STEWART

*Secretary.*

I certify that this Act originated in the Senate.

WALTER J. STEWART

*Secretary.*

## IN THE HOUSE OF REPRESENTATIVES, U.S.,

*March 22, 1988.*

The House of Representatives having proceeded to reconsider the bill (S. 557) entitled "An Act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964", returned by the President of the United States with his objections, to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was

*Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

DONNARD K. ANDERSON

*Clerk.*LEGISLATIVE HISTORY—S. 557:

SENATE REPORTS: No. 100-64 (Comm. on Labor and Human Resources).  
CONGRESSIONAL RECORD, Vol. 134 (1988):

Jan. 26-28, considered and passed Senate.

Mar. 2, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Mar. 16, Presidential veto messages.

CONGRESSIONAL RECORD, Vol. 134 (1988):

Mar. 22, Senate and House overrode veto.

